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AUTHOR King, Jason Scott, Ed.; Scurti, Jason, Ed.; And Others
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ABSTRACT

This casebook on international law was developed by high school students around the globe and emphasizes the important role that students can play in furthering international law education. The text provides teachers and students with a summary review of 25 major cases heard by the International Court of Justice, along with additional materials. The book supports the central role played by international law in resolving disputes affecting the maintenance of world peace and healthy environment, and the attainment of social and economic justice for all persons. This resource book offers a way to become more knowledgeable about the special role international law and the International Court of Justice have within the global community. A brief description of the roles of the International Court of Justice is provided in the introduction. (EH)

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INTERNATIONAL LAW AND THE SOCIETY OF NATIONS

An Introduction to Public International Law in the 1990's



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Cases and Materials



**International Law
and the Society of Nations**

**An Introduction to Public
International Law in the 1990's**

Cases and Materials

Prepared by

Project P.A.T.C.H. of
the Northport-East Northport U.F.S.D.
and the
Law, Youth and Citizenship Program
of the New York State Bar Association and
the New York State Education Department

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PREFACE

The United Nations has declared the 1990's to be the "Decade of International Law." One of the goals of educators throughout the world as part of this "Decade of International Law" should be to increase students' knowledge, understanding and appreciation of the historic and present-day importance of international law. This International Law casebook was developed by students and emphasizes the important role that students themselves can play in furthering international law education.

This book is just one outcome of the "International Cooperative Learning Model for Resolving World Issues" initiated in 1989 by the Law, Youth and Citizenship Program of the New York State Bar Association and the New York State Education Department and its educational partnership. This casebook was prepared by fifty-three secondary students from around the globe. Its text will provide teachers and students in secondary schools a summary review of twenty-five major cases heard by the International Court of Justice and additional materials.

The book supports a sound awareness of the central role played by international law in resolving disputes affecting the maintenance of world peace and a healthy environment and the attainment of social and economic justice for all persons.

The students and staff who undertook this challenging project have produced an outstanding legal learning tool.

We hope that this International Law casebook will become a resource used by students and teachers to become more knowledgeable about the special role international law and the International Court of Justice have within our global community.

Thomas J. O'Donnell
Director
Project P.A.T.C.H.

Eric S. Mondschein
Director
L.Y.C. Program

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International Law and the Society of Nations: Cases and Materials is an outstanding example of our global community's use of modern technology to support student cooperative long distance learning. During the past two-and-a-half years, young people from around the world have enthusiastically dedicated themselves to learning about the function of the International Court of Justice. With the help of several magnificent international law teachers, and through use of luma phones, E-mail, fax, computers, data base and international law libraries, fifty-three American, Belgium and Russian high school students spent hundreds of hours crafting this international law case summary text. We would especially like to thank the following:

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Dr. Gregory S. Wilsey for editing the final version of the International Law casebook.

A Very Special Thank You to all my global classmates who participated in this project for their skills, research and assistance which made the project possible.

**Jason Scott King,
Jason Scurti,
Editors-in-Chief**

International Law and the Society of Nations: Cases and Materials

Editors-in-Chief

Jason Scott King, '93

Jason Scurti, '92

Associate Editors

Jordan Thomsen, '91

Jodi Volper, '92

Jennifer White, '91

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Alexander Albregts, '91

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Nicole Weinreb, '91

International Law Instructors

Claudia Colantuoni

Serge Nepo

Olga Eduardovna Prokhorenko

Santo Scarpinito

Pamela Schaecher

Alla Abramovna Shushkovskaya

William Streitwieser

Vera Valentinova Zorich



BACK ROW: 1 to r: Roman Barsukov, Konstantin Popov, Lisa Bonk, Paul Colantuoni, Chris Bavitz, Barbara Nieuwenhuys, Henrik Skov, Nanda Korteweg, Anna Rubina, Alyson Brod;

FRONT ROW: 1 to r: Neil Sieftring, Scott Huller, Victoria Sevastianova, Frank Famiglietti.

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International Law Casebook—In Review

The International Court of Justice

On page 25 in the *International Law and the Society of Nations* text, it states that the International Court of Justice, under its own rules, Article 38(1), can decide disputes submitted to it through use of international law. The Court's own rules define international law as law derived from the following sources:

1. international treaties;
2. international customs;
3. general principles of law recognized by civilized nations; and
4. teachings of highly qualified publicists about judicial decisions.

There are other influences which the International Court of Justice can use to construct decisions. The Court may consider:

1. unilateral acts of international law;
2. decisions and resolutions of international organizations;
3. principles of equity and justice; and
4. judicial reasoning.

Ex Aequo Et Bono

Additionally, if all parties in the dispute agree, the Court, under its own rules, can decide a case *ex aequo et bono*, that is, without strict regard for the existing rules of international law, but according to what is just and good in light of the merits of the case. (This provision has never been applied by the Court but it is an option the Court may use.)

A Duty to Care

No matter what sources or influences the International Court of Justice draws on to decide a case, the Court has a duty in all cases to act judiciously and with care not to infringe on the standards of justice, equity and reasonableness found in the international community.

The International Court of Justice is empowered by the United Nations Charter to hear and decide legal issues in two contexts: advisory opinions and contentious cases.

Advisory Opinions

The Court gives an advisory opinion when an organization of the United Nations wants the Court's legal point of view on an international legal question. The Court will not issue an advisory opinion at the request of a State or international organization that is not part of the United Nations.

Contentious Cases

Are cases brought to the International Court of Justice by States? Cases must present a legal, as opposed to a political, question for the Court. Only member States of the United Nations, or non-U.N. members who have endorsed the International Court of Justice or non-members who accepted the jurisdiction of the Court can be made parties in contentious cases.

In Summary

The International Court of Justice decides legal disputes between States, and gives legal advice about legal questions as requested by the United Nations. The judges in the World Court look at existing treaties, customs, general legal principles, scholarly teachings, resolutions and decisions of international organizations and legal principles of equity, justice and reason to help them rule or advise on difficult international legal issues.

The following case summaries of 1) advisory opinions, 2) contentious case rulings, and 3) decisions and resolutions of international organizations provide an assortment of several sources of international law used by the International Court of Justice.



The S.S. Lotus (France v. Turkey), Judgment of September 7, 1927, 1927 Permanent Court of International Justice (series A) no. 10.



FRANCE



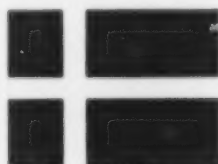
TURKEY

FACTS: On August 2, 1926, the French ship, the *Lotus*, collided with the Turkish ship, the *Boz-Kourt*, five nautical miles off the coast of Turkey. The collision killed eight Turkish sailors. When Lieutenant Demons, captain of the French ship, reached his destination of Constantinople, Turkish authorities arrested him and charged him with manslaughter. A dispute arose concerning Turkey's right to prosecute Lieutenant Demons.

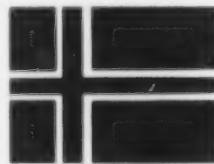
ISSUE: Whether Turkey violated international law by criminally prosecuting Lieutenant Demons, a French citizen.

JUDGMENT: The Court ruled in favor of Turkey. It decided that Turkey was not in violation of Article 15 of the Conference of Lausanne or any international law, and that both countries had jurisdiction regarding the collision, which occurred in international waters.

Legal Status of Eastern Greenland (Denmark v. Norway), Judgment of April 5, 1933, 1933 Permanent Court of International Justice (series A/B) No. 53.



DENMARK



NORWAY

FACTS: In July, 1931, Denmark brought an action against Norway after Norway had declared that it occupied certain territories in Greenland. Denmark believed that all of Greenland was subject to Danish rule, arguing that Norway's Declaration of Occupation was invalid.

ISSUE: Whether Norway's occupation of Eastern Greenland violated international law.

JUDGMENT: The Court decided that the Declaration of Occupation carried out by the Norwegian government violated the existing legal situation and therefore was unlawful and invalid. Norway complied with the decision by revoking their claims to Greenland.

Corfu Channel (United Kingdom v. Albania), Judgment of April 9, 1949, 1949 I.C.J. Reports 4.



UNITED KINGDOM



ALBANIA

FACTS: Immediately following World War II, Allied naval authorities (winners of World War II) carried out mine sweeping operations in the Corfu Channel, a body of water between Greece and Albania. Several months later, on October 22, 1946, Allied English Warships, traveling through the Corfu Channel, were struck by underwater mines. Having lost a number of servicemen in the explosion, the United Kingdom accused the Albanian government of having laid, or having allowed a third party to lay, the mines after the mine clearing operations had been conducted. The United Kingdom then carried out its own mine sweeping operation in the Corfu Channel. Albania objected to this operation.

ISSUES: Was Albania responsible for the explosion which killed the English servicemen and thus responsible for paying reparations?

Counter Claim: Did Great Britain violate the sovereignty of Albania by sending warships into Albanian territorial waters to conduct mine sweeping operations?

JUDGMENT: Albania was responsible under international law for the explosions that had taken place in Albanian water and for the damage and loss of life which had ensued. The Court

held that Albania must have had knowledge of the presence of the mines.

The Court, concerning the counter claim, recognized the international customary principle of allowing ships innocent passage through any waters. It did find that the mine sweeping operations carried out by Great Britain violated Albania's sovereignty.

(In a later decision, dated December 15, 1949 the Court ordered Albania to pay England £844,000 in reparations.)

Reparation for Injuries Suffered in the Service of the United Nations,
Advisory Opinion of April 11, 1949, 1949 I.C.J. Reports 174.



UNITED NATIONS *

FACTS: In September, 1948, Count Folke Bernadotte, United Nations mediator in Palestine, and several other members of the United Nations Mission to Palestine, were assassinated in Jerusalem while on official United Nations business.

ISSUE: Whether or not the United Nations had the right to bring an international claim against a State to obtain reparations for damage caused to the United Nations and damages caused to the victim or to persons entitled through them.

JUDGMENT: The Court ruled the United Nations has the right to bring an international claim for both injuries suffered to the United Nations as an organization, as well as with respect to the damage caused to the victim or to persons entitled through them.

* Please note: The advisory opinions in this casebook are only represented by the flag of the United Nations as only the United Nations or entities authorized by the United Nations can request an advisory opinion from the International Court of Justice. In cases where an advisory opinion is sought there are no State parties to the case before the Court.

International Status of South West Africa, Advisory Opinion of July 11, 1950, 1950 I.C.J. Reports 128.



UNITED NATIONS

FACTS: The League of Nations placed several territories in the trusteeship of the United Nations when the League was dissolved in 1946. Other territories which had been administered by the League of Nations began systems of self-governance, but South West Africa remained under the administration of South Africa. This created a conflict between the United Nations and South Africa.

ISSUE: Whether the Union of South Africa was obliged to place South West Africa under the Trusteeship of the United Nations.

JUDGMENT: The Court stated that South Africa did not have to place South West Africa in the trusteeship system. The Court did point out, however, that South Africa must remain bound to the obligations set forth in Article 22 of the League Covenant, stipulating self-governance for former colonies. (South Africa refused to act in accordance with this opinion, arguing that international supervision of South West Africa ended when the League of Nations was dissolved in 1946.)

Interpretation of Peace Treaties (second phase), Advisory Opinion of July 18, 1950, 1950 I.C.J. Reports 221.



UNITED NATIONS

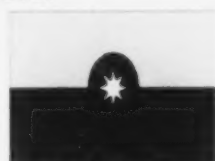
FACTS: At the conclusion of World War II, the Allied States became involved in disputes with Hungary, Bulgaria and Romania. These countries had entered into The Treaties of Peace with the Allied States following World War II. These

treaties stated that if a dispute was not settled through direct negotiations between the two countries, each party was to appoint a representative to an arbitration commission, and both were to agree on an impartial third member of the commission. The commission would then settle the dispute. In the event that no third member was chosen by the countries, the Secretary-General of the United Nations was to appoint the third member. In an earlier decision, the Court decided that the countries were obligated to appoint members to the commission. Bulgaria, Hungary and Romania all refused to appoint a member to the commission. The United Nations General Assembly thus asked for an advisory opinion of the Court.

ISSUE: Could the Secretary-General of the United Nations still proceed to name the third member of the commission even if one of the parties had failed to name its representative?

JUDGMENT: The Court replied that this method could not be adopted since it would result in creating a commission of two members, which violated the treaty provisions which established a three member commission.

Colombian-Peruvian Asylum, Judgment of November 20, 1950, 1950 I.C.J. Reports 266.



COLOMBIA



PERU

FACTS: In 1948, a military uprising broke out in Peru and was quickly subdued. Victor Haya de la Torre was arrested and charged with instigating the revolt. On January 3, 1949 Haya de la Torre sought asylum in the Colombian embassy. The Colombian Ambassador in Peru granted the asylum and informed the Peruvian Minister of Foreign Affairs.

ISSUE: Could Colombia grant asylum unilaterally?

JUDGMENT: The Court found that even though Peru had not proved that the refugee was a common criminal, Colombia could not unilaterally grant asylum to him as that would be in violation of the Havana Convention on Asylum.

Further litigation on same issue:

Haya de la Torre Case, Judgment of June 13, 1951, 1951 I.C.J. Reports 71.



COLOMBIA



PERU

FACTS: Peru requested the Court require Colombia to return the refugee to them because the Court had decided that the granting of asylum was in violation of the Havana Convention on Asylum.

ISSUE: Did Colombia have to surrender the refugee?

JUDGMENT: While confirming that asylum had been irregularly granted and that on this ground Peru was entitled to demand its termination, the Court declared that Colombia was not bound to surrender the refugee. These two conclusions, it stated, were not contradictory because there were other ways in which the asylum could be terminated besides the surrender of the refugee.

Reservations to The Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion of May 28, 1951, 1951 I.C.J. Reports 15.



UNITED NATIONS

FACTS: The ratification of the Convention on the Prevention and Punishment of the Crime of Genocide by the U.S.S.R. contained such extensive reservations that other signatory States refused to consider the Soviet Union's ratification in keeping with the purposes of the Convention. The General Assembly of the United Nations requested an advisory opinion of the International Court of Justice in 1950 regarding reservations to the Convention on Genocide. It is generally accepted that no State can be bound without its consent, and thus no reservation can be effected against

a State without its agreement. Another common principle of international law is that no reservation is valid unless all contracting parties have accepted it.

ISSUES:

I. Whether a member State, which has made reservations to the Convention, can be considered a member if other member States object to the reservations.

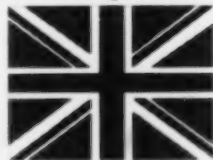
II. If so, what is the effect of the reservation on the relationship between the member State holding the reservation and the objecting member State(s); and the States which accept the reservations?

JUDGMENT:

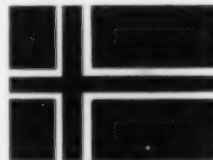
I. The Court decided that a State which has made reservations to the Convention can be regarded as a party if the reservation is compatible with the object and purpose of the Convention.

II. The Court also held that if a party to the Convention objects to a reservation which it considers to be incompatible with the object of the Convention, it can consider that the reserving State is not a party to the Convention. If a party accepts the reservation as being compatible with the object and purpose of the Convention, it can consider the reserving State a party to the Convention. The Court also refused to recognize an objection to a reservation made by a State which has not yet ratified or signed the Convention.

Fisheries Case (United Kingdom v. Norway), Judgment of December 18, 1951, 1951 I.C.J. Reports 116.



UNITED KINGDOM



NORWAY

FACTS:

Beginning in the 1600's and for several centuries following, British fishermen had agreed not to fish in the coastal waters of Norway. In 1906, however, the British resumed fishing in the Norwegian waters. This change gave rise to the Norwegian Royal Decree of 1935, which granted Norway's fishermen the exclusive right to fish in the waters in question. Great Britain brought suit in international court, claiming that Norway did not have jurisdiction over all the waters it had claimed.

ISSUE: Whether the Norwegian decree, which laid down a method by which Norway calculated the width of their territorial waters using baselines, was valid under international law.

JUDGMENT: The Court found in favor of Norway, ruling that neither the method nor the actual baselines stipulated in the decree violated international law. Norway therefore had the right to exclude British fishermen from its coastal waters.

Anglo-Iranian Oil Co. (United Kingdom v. Iran), Judgment of July 22, 1952, 1952 I.C.J. Reports 93.



UNITED KINGDOM



IRAN

FACTS: In 1933 the Government of Iran and the Anglo-Iranian Oil Company finalized an agreement. In 1951, Iran passed laws for the nationalization of the oil industry. These laws resulted in a dispute between Iran and the company. The United Kingdom brought the case to the Court on behalf of the company. Iran disputed the Court's jurisdiction.

ISSUE: Did the International Court of Justice have jurisdiction to decide this case?

JUDGMENT: Both countries needed to submit declarations which accepted the Court's compulsory jurisdiction under Article 36 paragraph 2 of the Court's statute. Since this did not occur to the Court's satisfaction, it ruled that it did not have jurisdiction in this case.

Case Concerning Rights of Nationals of the United States of America in Morocco (France v. United States), Judgment of August 27, 1952, 1952 I.C.J. Reports 176.



FRANCE



UNITED STATES OF AMERICA

FACTS: Morocco, a French Protectorate, issued a decree on December 30, 1948, which imposed a system of license

controls on certain imports. All countries except for France were bound by this decree. The United States objected on the grounds that, based on treaties signed in 1787 and 1836, Morocco must receive prior consent before their laws are applicable to U.S. nationals. In addition, the United States objected that France received preferential treatment, in violation of the Act of Algeciras of 1906.

ISSUES:

I. Did the decree violate the Act of Algeciras of 1906 which guaranteed equality of treatment among all countries granted most favorable nation status by the act?

II. Must Morocco receive prior consent from the United States before laws are applicable to U.S. nationals?

III. Does the United States enjoy consular jurisdiction in all cases, civil and criminal, in which a U.S. national is a defendant?

JUDGMENT:

I. The differential treatment afforded France by way of the exemption to this decree was incompatible with the Act of Algeciras.

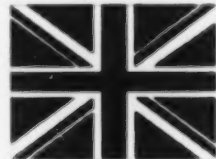
II. The United States is not entitled to claim that the application of laws and regulations to its nationals in the French Zone requires its consent.

III. The consular jurisdiction of the United States continues to exist to the extent that may be necessary to carry out the Act of Algeciras.

The Minquiers and Ecrehos Case (France v. United Kingdom)
Judgment of November 17, 1953, 1953 I.C.J. Reports 47.



FRANCE



UNITED KINGDOM

FACTS:

The Minquiers and Ecrehos are two groups of small islands situated between the United Kingdom and the coast of France. The United Kingdom controlled these islands from 1066 until France conquered Normandy in 1204. The United Kingdom claimed that later treaties proved that these islands remained in the United Kingdom's possession. France claimed that these same treaties prove that

they control the islands. Both the United Kingdom and France asked the Court to settle their dispute.

ISSUE: Did the United Kingdom or France have title over the Minquiers and Ecrehos islands?

JUDGMENT: The Court ruled that direct evidence of possession and the exercise of sovereignty is the deciding factor in the case and awarded the islands to the United Kingdom.

Effect of Awards of Compensation Made by the U.N. Administrative Tribunal, Advisory Opinion of July 13, 1954, 1954 I.C.J. Reports 47.



UNITED NATIONS



UNITED NATIONS

FACTS: The United Nations Administrative Tribunal was established by the General Assembly to settle disputes concerning employees of the United Nations. A dispute arose concerning the payment of an award to a staff member whose contract of service had been terminated without his consent. The General Assembly wished to overturn a decision of the Administrative Tribunal of the United Nations.

ISSUE: Whether the General Assembly can overturn the judgment of the United Nations Administrative Tribunal.

JUDGMENT: The Court ruled that the Tribunal was an independent judicial body pronouncing final judgments without appeal within the limited field of its functions and not merely an advisory or subordinate organ. The judgments were therefore binding on the United Nations Organization and thus the General Assembly. The Court denied the request by the General Assembly to overturn the decision of the administrative branch of the United Nations.

**Nottebohm Case (Liechtenstein v. Guatemala) (second phase),
Judgment of April 6, 1955, 1955 I.C.J. Reports 4.**



LIECHTENSTEIN



GUATEMALA

FACTS:

Friedric Nottebohm was born in Hamburg, Germany in 1881. In 1905, Nottebohm moved to Guatemala, where he worked at and eventually ran a commerce and banking firm named Nottebohm Hermanos. From 1905 to 1939, he occasionally traveled between Guatemala and Germany, where he maintained his nationality. On October 9, 1939, he moved to Liechtenstein and applied for nationality there. In 1940 he returned to Guatemala to resume his business activities. In 1943, during World War II, Guatemala deported him. Liechtenstein initiated this proceeding against Guatemala, claiming that Nottebohm was a citizen of Liechtenstein and was unfairly treated.

ISSUE:

Did the government of Guatemala violate international law in its treatment of Friedric Nottebohm, a citizen of Liechtenstein?

JUDGMENT:

The Court ruled that Nottebohm could not prove any stable connection to Liechtenstein, and was naturalized there only to avoid the war. Since his naturalization was not a sincere act, Nottebohm's claim that he was a citizen of Liechtenstein was invalid. Therefore, the Court ruled, they could not rule on the merits of the case because Liechtenstein had no standing in this case.

Lawless Case, Judgment of July 1, 1961, European Court of Human Rights (Series A) 1960-61.



IRELAND

FACTS:

Republic of Ireland authorities arrested Gerard Richard Lawless on May 14, 1957 on suspicion of engaging in unlawful activities. They searched his house and a manuscript document on guerrilla warfare was found. On May 16, 1957 they sentenced Lawless to one month's imprisonment on a charge of possession of incriminating documents. On July 8, 1957 the authorities brought into force special powers of arrest and detention which had been conferred upon the Ministers of State by the Offenses Against the State Act, 1940. Based on this power, they rearrested Lawless, interned him without trial, together with 120 others. On December 10, he appeared in court and agreed not to commit any illegal activities under the 1940 Act. The authorities then released him. Lawless applied on November 8 to the European Court of Human Rights.

ISSUE:

Did the Republic of Ireland violate the Convention for the Protection of Human Rights and Fundamental Freedoms by detaining Lawless without charge or trial?

JUDGMENT:

The Court held unanimously, that, after examining Articles 5, 6, 7, 15 and 17, there was no violation of the Convention.

Case Concerning the Temple of Preah Vihear (Cambodia v. Thailand), Judgment of June 15, 1962, 1962 I.C.J. Reports 6.



KAMPUCHEA



THAILAND

FACTS:

The Temple of Preah Vihear is an 800-year-old walled sanctuary and shrine located on the borders of Thailand

and Cambodia. The Temple has artistic and archaeological value, and is still used as a place of pilgrimage. Thailand occupied the Temple with police, and for several years, Cambodia demanded an explanation. Thailand never responded to Cambodia's requests, nor its asserted claims to the Temple. Cambodia asked the Court to declare that it had territorial sovereignty over the Temple and that Thailand was under an obligation to withdraw the armed detachment stationed there since 1954.

ISSUE: Whether Cambodia had territorial sovereignty over the region of the Temple of Preah Vihear.

JUDGMENT: The Court decided that the Temple is situated on territory under the sovereignty of Cambodia and that Thailand was obliged to withdraw all of its military or police forces from the vicinity. The Court ruled Thailand should restore to Cambodia any objects that had been removed from the Temple by Thai officials. The Court's decision was based on abandonment, or the failure of Thailand to assert any right to the land in question.

The Ambatielos Claim (Greece v. United Kingdom), Commission of Arbitration, 1956, 12 U.N. Reports of International Arbitral Awards 82 (1963).



GREECE



UNITED KINGDOM

FACTS: The International Court of Justice, in 1953, ruled that it did not have jurisdiction to decide the merits of this case but did have jurisdiction to state that the United Kingdom was under an obligation to submit the case to arbitration in accordance with the treaties of 1886 and 1926. Greece brought this proceeding against the United Kingdom on behalf of a citizen, Ambatielos, who had contracted to purchase nine steamships. The United Kingdom claimed that remedies were available for Ambatielos in the British justice system, and his failure to exhaust those possible remedies made the international claim void.

ISSUES: I. Does Greece have the right to bring an international case against the United Kingdom on behalf of an individual citizen?

II. Did the United Kingdom violate the 1886 Anglo-Greek Treaty of Commerce and Navigation?

JUDGMENT: I. The arbitration commission ruled that Ambatielos had failed to exhaust all the possible remedies available under the British justice system. Therefore, Greece had no right to bring the case at the international level.

II. Great Britain did not violate the 1886 Treaty.

South West Africa (Ethiopia v. South Africa; Liberia v. South Africa) (second phase), Judgment of July 18, 1966, 1966 I.C.J. Reports 6.



ETHIOPIA



LIBERIA



SOUTH AFRICA

FACTS: South West Africa was a colony of Germany which was among the territories placed under a League of Nations mandate, administrated by South Africa. Article 22 of the League of Nations Covenant implied that people living in the mandated territories would be allowed a right of self-determination at some time in the future. After the dissolution of the League, the Court stated in an advisory opinion (1950) that South Africa was still bound by the obligations of its League of Nations mandate. In 1960, Ethiopia and Liberia accused South Africa of violating the mandate by introducing apartheid into South West Africa.

ISSUE: Whether South Africa is in violation of its League of Nations mandate regarding South West Africa.

JUDGMENT: The Court dismissed the cases brought by Ethiopia and Liberia, stating that the obligations under the mandate belonged to the League itself and not individual members.

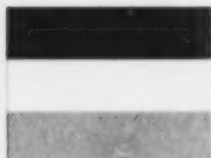
North Sea Continental Shelf (Federal Republic of Germany v. Denmark; Federal Republic of Germany v. Netherlands), Judgment of February 20, 1969, 1969 I.C.J. Reports 3.



GERMANY (WEST)



DENMARK



NETHERLANDS

FACTS:

A dispute arose between the Federal Republic of Germany, Denmark and the Netherlands concerning the delimitation of the continental shelf in the North Sea. The parties disagreed about which principles of international law should be used to determine the undersea boundaries of the three countries.

ISSUE:

What principles and rules of international law should apply to the delimitation of the continental shelf of the North Sea between Denmark and the Federal Republic of Germany and between the Netherlands and the Federal Republic of Germany?

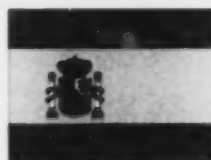
JUDGMENT:

The Court decided that the area should be divided so that each country claims the parts of the continental shelf which are natural underwater extensions of its land, as long as this does not encroach on the territory of another country. If the areas cross, a special agreement delimiting them equally or arranging for joint jurisdiction or exploitation is necessary.

Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain) (second phase), Judgment of February 5, 1970, 1970 I.C.J. Reports 3.



BELGIUM



SPAIN

FACTS:

Barcelona Traction, Light and Power Company Limited, was incorporated in Toronto, Canada, in 1911. In 1958 Spanish courts declared the company bankrupt. Belgium claims that the company's stock belonged largely to

Belgian citizens and that the Spanish judicial and administrative authorities had committed unlawful acts; and as a result of those acts, Spain has violated international law. Spain argued that the activities of Barcelona Traction and its subsidiaries were conducted in violation of Spanish law and caused damage to the Spanish economy.

ISSUE: Whether Spain was required to give diplomatic protection to the shareholders in Belgium.

JUDGMENT: The Court stated that unless Belgium had legal standing within Spain for its own citizens, the Court could not examine these allegations. Since the Court found that Belgium had no legal standing to exercise diplomatic protection of shareholders in a Canadian company in respect to measures taken against that company by Spain, it rejected the Belgium claim.

Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion of June 21, 1971, 1971 I.C.J. Reports 16.



UNITED NATIONS

FACTS: South West Africa was the only territory under the League of Nations which had not adopted self-governance or been placed under the trusteeship of the United Nations. In a 1950 advisory opinion, the Court had ruled that the mandate system created by the League of Nations continued under the authority of the United Nations. South Africa refused to accept the Court's opinion, and in the 1960's the United Nations passed several resolutions which terminated South Africa's administration of the territory and requested its withdrawal. The U.N. Security Council declared South Africa's continued presence in South West Africa (now Namibia) illegal, and requested an advisory opinion from the Court regarding the legal consequences of South Africa's continued presence in Namibia.

ISSUE: What are the legal consequences for States of the continued presence of South Africa in Namibia?

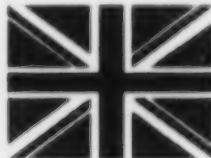
JUDGMENT: The Court ruled that the continued presence of South Africa in Namibia was illegal, thus agreeing that the United Nations was within its powers in its actions regarding South Africa's presence in Namibia. South Africa was therefore under obligation to withdraw its administration from Namibia immediately, as previously demanded by the United Nations, and to put an end to its occupation of the Territory. Other States were obliged to refrain from any dealings with South Africa which could imply legal recognition of their illegal occupation.

(South Africa refused to abide by this advisory opinion. Namibia eventually became independent in 1990.)

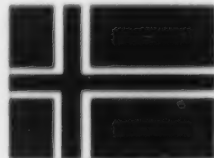
Fisheries Jurisdiction (*United Kingdom v. Iceland; Federal Republic of Germany v. Iceland*), Judgment of July 25, 1974, 1974 I.C.J. Reports 3; 175.



GERMANY (WEST)



UNITED KINGDOM



ICELAND

FACTS: Iceland passed laws in 1948 establishing conservation zones to avoid overfishing, and in 1952 and 1958 established exclusive fishing zones at four and twelve miles, respectively, off Iceland's coast. The United Kingdom and the Federal Republic of Germany did not accept the twelve mile limit, and fished inside that boundary until an agreement was reached between the countries in 1961. In 1972, Iceland wanted to again extend its exclusive fishing rights from a distance of 12 nautical miles to 50 nautical miles. This unilateral decision resulted in these actions against Iceland.

ISSUE: Whether Iceland has the right to unilaterally impose regulations on its coastal waters.

JUDGMENT: The Court held that Iceland was not permitted to extend its exclusive fishing rights unilaterally. The Court stated that the previous agreement with regard to the fishing limits still held, but the countries involved must make good faith efforts to resolve their differences.

Nuclear Tests (Australia v. France; New Zealand v. France), Judgment of December 20, 1974, 1974 I.C.J. Reports 253; 457.



AUSTRALIA



NEW ZEALAND



FRANCE

FACTS:

Beginning in 1966, France had carried out atmospheric tests of nuclear devices in French Polynesia. The governments of New Zealand and Australia objected to the tests on the grounds that they caused radioactive fallout on their territory. On June 22, 1973, at the request of New Zealand, the Court granted an interim measure of protection and ordered France to stop conducting these nuclear tests until the Court could rule on the case. New Zealand submitted evidence that France had violated this order twice, causing fallout on New Zealand's territory. Several members of the French government subsequently publicly declared that they would unilaterally cease their nuclear testing in the South Pacific.

ISSUE:

Should France be forced to stop the atmospheric tests of nuclear devices at their South Pacific facility in the territory of the French Polynesian Islands?

JUDGMENT:

The Court ruled that the unilateral announcement by the French government was clear in meaning and addressed to the international community as a whole. Therefore, these statements had legal effect. The Court further ruled that since the objective of Australia and New Zealand had been accomplished, the Court did not have to make any further decisions regarding this case.

Western Sahara, Advisory Opinion of October 16, 1975, 1975 I.C.J. Reports 12.



UNITED NATIONS

FACTS:

Beginning in the 1880's Spain colonized parts of the Western Sahara, including the area that was later to

become Mauritania. By the 1970's Spain was in the process of leaving the Western Sahara, and planned to allow the inhabitants of the area to determine their own form of governance. Neighboring Morocco felt that Spain was taking too long to leave the territory, and claimed that the land in question was ruled by Morocco prior to Spanish colonization. The newly independent State of Mauritania also claimed to own land in the Western Sahara based on earlier ties, yet agreed with the nearby country of Algeria that it should be the right of the people in the territory to decide if they wanted to be self-governing or ruled by another State. The U.N. General Assembly brought this case of self-determination to the Court.

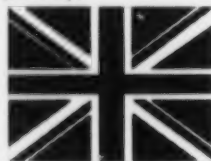
ISSUE: Whether the people of the Western Sahara have the right to determine their own form of government.

JUDGMENT: The Court found that the land Spain colonized belonged to someone; it was not *terra nullus* (belonging to no one) at the time of occupation. At the time of Spanish Colonization, both Morocco and Mauritania had legal ties to the Western Sahara. Yet the Court ruled this did not affect the application of Resolution 1514(XV). Western Sahara had the right to self determination.

Ireland v. United Kingdom, Judgment of January 18, 1978, European Court of Human Rights (series A) No. 25 (1978).



IRELAND



UNITED KINGDOM

FACTS: In August, 1971, the Northern Irish Army began arresting people who were suspected of having involvement with the Irish Republican Army (IRA). Fourteen people arrested in late 1971 were taken to questioning centers where they were subjected to "sensory deprivation" techniques. These techniques included sleep deprivation, subjection to loud and continuous noise and keeping a dark hood over the detainees' heads. The United Kingdom claimed that they chose these techniques carefully and with regard to the Convention for the Protection of Human Rights and Fundamental Freedoms.

- ISSUES:**
- I.** Whether the sensory deprivation techniques used on the IRA prisoners should be considered torture.
 - II.** Did Great Britain violate the provisions of the Convention?
 - III.** Did Great Britain carry out a policy of discrimination against the IRA on the grounds of political opinion?

- JUDGMENT:**
- I.** The Court concluded that the five techniques used amounted to a "practice of inhuman and degrading treatment" but were not as intense and cruel as the word torture implies in Article 1 of resolution 3452(30) of the U.N. General Assembly. The United Kingdom was found to be within its rights in its treatment of the IRA prisoners.
 - II.** The convention allows for extra measures to be taken during a time of emergency. The Court ruled there was such an emergency in Northern Ireland, thus Great Britain acted within the provisions of the Convention.
 - III.** The Court did not find that discrimination had been established.

United States Diplomatic and Consular Staff in Tehran (United States v. Iran) Judgment of May 24, 1980, 1980 I.C.J. Reports 3.



- FACTS:**
- In October, 1979, the United States had allowed the former Shah of Iran to enter the United States for medical treatment. Iran objected and requested the return of the Shah to Iran. In November, 1979, a group of Iranian militants seized the U.S. Embassy in Iran and took its staff hostage. The United States claimed that the hostages were being treated inhumanely and in violation of the 1961 Vienna Convention on Diplomatic Relations. Although Iran did not file any pleadings with the Court, they did send two letters, claiming that they might be justified in taking the hostages due to special circumstances.

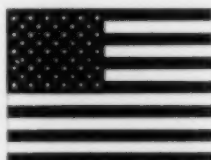
- ISSUE:**
- Whether Iran violated the Vienna Convention by seizing and holding American diplomats hostage.

JUDGMENT: The Court found that by taking American diplomats hostage, Iran was in direct violation of the 1961 Vienna Convention. Additionally, the Court decided that Iran must immediately release all Americans being held hostage.

Military and Paramilitary Activities In and Against Nicaragua (Nicaragua v. United States), Judgment of June 27, 1986, 1986 I.C.J. Reports 14.



NICARAGUA



UNITED STATES OF AMERICA

FACTS: The United States of America had carried out military and paramilitary activities in and against Nicaragua which included restricting access to Nicaraguan ports, and, in particular, the laying of mines. Nicaragua objected to these actions. The United States did not participate in the proceedings after January, 1985.

ISSUE: Did the United States' military activities violate international law?

JUDGMENT: The Court ruled that the United States had violated the obligations imposed by customary international law not to intervene in the affairs of another State, not to use force against another State, not to infringe the sovereignty of another State and not to interrupt peaceful maritime commerce. The United States was ordered to cease and refrain from these violations.

